

**MINUTES
FOR THE REGULAR MEETING
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
Docket No. 5477**

1. Opening of Meeting:

The Appeals Board convened at 10:30, January 9, 2007 in Sacramento, with Chair Ann M. Richardson presiding.

2. Roll Call: Members

Present

Absent

Ann Richardson, Chair

X

Virginia Strom-Martin

X

Jack Cox

X via phone

Liz Figueroa

X

Terri Carbaugh

X

3. Approval of the Minutes:

The December 12, 2006 minutes were approved by all members except Member Figueroa, who was not on the Board in December.

4. Chair's Report:

Chair Richardson introduced the newest member of the CUIAB, Senator Liz Figueroa. Chair Richardson commented she is extremely pleased to have Liz with us, and that we couldn't have gotten a better member. She said that she has known Senator Figueroa for approximately seven years, and has worked with her on numerous pieces of legislation ranging from privacy, banking and finance, to consumer protection issues. Chair Richardson stated that Member Figueroa was one of the finest members of the legislature and that she is very honored to have her here with the CUIAB.

Member Figueroa served in the Assembly in the nineties, and while a member of the Senate served on the Senate Judiciary Committee, the Senate Labor Committee, and the Senate Banking and Finance Committee, and in addition she was Chair of the Business and Professions Committee. Also, Member Figueroa served on the Little Hoover Commission, which had the opportunity to review the CPR recommendations regarding various boards and commissions.

Chair Richardson reported that the Department of Personnel Administration did not approve the pay differential for the PALJs, yet another recruitment and retention issue that will need to be dealt with in the upcoming year. Chair Richardson stated that she wanted to assure the Presiding Judges that we will continue to pursue the issue, as she is well aware of the difficult tasks PALJs face.

5. Board Member Reports:

Member Strom-Martin also welcomed Senator Figueroa to the Board, commenting that they had worked together for four years in the Assembly, and knows first hand that she will be an incredibly able member, very well versed in business and privacy issues.

Member Figueroa stated that it is a pleasure to be here and that she had already had some discussions with various Board Members, and she has been very impressed with the Agency. She went on to say that she fought very hard to save some of the boards and commissions in California, including the CUIAB as she knew that it was a wonderful Board with excellent leadership.

6. Chief Administrative Law Judge/Executive Director's Report:

Executive Director/Chief Administrative Law Judge Jay Arcellana welcomed Member Figueroa on behalf of Field Operations.

Chief Arcellana reported that he had received word from the Department of Labor that Arizona is considering going to a central panel concept, which would make a total of five states to go in that direction. CUIAB has resisted the central panel concept, because it does not tend to provide the parties with the same level of service and efficiency currently achieved by the CUIAB.

Chair Richardson commented that they must have a small case load compared to California, with which Chief Arcellana agreed, commenting that all of their programs combined are less than California's UI program alone.

Chief Arcellana reported that due to budget issues the CUIAB will not be able to hold a judicial conference this year. In lieu of the training usually provided by the conference, Randy Petersen has put together a training program package, including a number of training videos and bulletins that will be distributed to all of the field offices, and has planned for some regional and office training. When many departments encounter budgetary issues one of the first items they cut is training, but CUIAB is very committed to training staff.

Chair Richardson inquired if the training videos are sophisticated enough to allow the judges to look at them on their own time like continuing education, and if they would be able to view them on their computer so we don't have to take them off calendar. Chief Arcellana responded yes, with the way it is planned now they won't lose any calendar time because they will schedule the training during their 'dec' time. They have found that getting the judges together with the PJs and with Randy and the trainers is helpful because then they can dialogue.

Chief Arcellana reported that the Tax Unit would be meeting with EDD's Tax Branch this week as part of their ongoing effort to stay abreast of common issues.

Courier cases are being set at a good pace now, with eight scheduled for January and nine each for February and March. This means that a number of courier appeals will probably reach the Appeals Board in the near future.

Finally, Chief Arcellana reported that Eleanor Nisperos, Field Operations Headquarters Presiding Judge, is retiring. The position might not be filled, instead consolidating FOHQ with the Tax Unit, which avoids the usual recruitment problems associated with filling our PALJ positions and at the same time achieving salary savings in a managerial position. On behalf of the field Chief Arcellana thanked the Chair for her support on that issue.

7. Branch Reports:

a. Executive Director/Chief Administrative Law Judge Jay Arcellana gave a PowerPoint presentation to the Board on the year end report for 2006. (Attachment A)

Chair Richardson commented that Tim McArdle would be going back to Mississippi again this month, and commended his national presence among the UI community and his fine representation of the State of California.

Chief Arcellana gave another PowerPoint presentation on the Field Operations December 2006 workload. (Attachment B)

b. Deputy Chief ALJ, Appellate Operations Steve Angelides reported 1,135 cases were registered in December, 9% more than in November. However, November itself was a particularly low month. December dispositions dropped 16% from November, to 1,173. The balance of open cases at the end of December once again fell to a new four-year low of 1,384. During the first 5 months of 2006 the average balance of open cases was 2,421, to give this some perspective. The decrease in workload in AO over the past 7 months has been dramatic and sustained. While most of this decrease is due to the drop in registrations at the field level, some of it is because relatively fewer people are appealing from the field to appellate operations. The average appeal rate from the field to appellate operations in the first 5 months of 2006 was 6.5%. The average appeal rate from the field to appellate operations for the last 7 months of 2006 was 5.7%. At some point there may not be enough cases available for full assignments to the AO judges.

The average unemployment case age dropped again in December to 33 days, another new calendar year low. The average case age in the first 5 months of 2006 was 42 days. It takes a minimum of about 3 weeks from the time a case is registered until it is ready for assignment. When the record is requested and written argument is submitted, it takes about 3 weeks longer. So, an average case age of 33 days is quite an achievement given those time frames.

The dramatic decrease in AO's workload has resulted in a similar decrease in the workload of CTU, the Central Transcription Unit. In the first 5 months of 2006, CTU

averaged 12,822 pages of transcripts per month. In the last 7 months of 2006, CTU averaged 7,884 pages of transcripts per month. As a consequence, CTU has been able to loan transcribers to help AO with decision typing for the past several months. There are plans to have CTU loan additional staff to help fill in at AO case processing, which has a number of vacancies.

Work continues on the AO and CTU Procedure Manual, as well as on CATS, the California Appeals Tracking System, to address errors in case processing which have occurred from time to time.

Member Carbaugh asked Deputy Chief ALJ Angelides if the drop in the appeals rate was proportionate between claimants and employers, or if one or the other reflected a higher drop in appeals. Deputy Chief ALJ Angelides did not know the answer to that question, but stated he would obtain the information.

c. Deputy Director, Administrative Services Branch Pam Boston reported that the lease for the Fresno office has been executed, and they expect to move sometime in September or October.

IT has been assisting with the San Francisco remodel, disassembling the computers and phones on Friday and setting them back up by noon on Monday, which is quite an accomplishment.

Deputy Director Boston also reported that IT has continued work on upgrading the CATS database. The upgrade is necessary because the current software is out of date. The first milestone of the upgrade took place in mid-December, and the project should be completed by the first of 2008. This is a big workload item for the IT staff, and they are doing an outstanding job on getting the upgrade completed.

d. Deputy Director, Planning and Program Management Branch Mary Walton-Simons reported that it is time for the bi-annual audit in accordance with the Financial Integrity and State Managers Accountability Act (FISMA). As in 2005, the CUIAB will contract with EDD for this audit. The CUIAB did quite well on the previous report, and any minor corrections we had to make were resolved over a year ago.

Deputy Director Walton-Simons reported on continuing training by her branch: supervisory transition training in the Inland Office for a new LSS II, and in the Pasadena Office of Appeals for a new LSS I. A new two-day hands-on-training course is being developed to assist employees participating in the Upward Mobility Program, focusing on examinations and job interviews. This training may be done by Polycom, depending on travel restrictions.

Chair Richardson inquired as to how we have notified our employees of the upward mobility program in the past, and asked Deputy Director Walton-Simons to explain the upward mobility program for Senator Figueroa's benefit.

Deputy Director Walton-Simons explained that the upward mobility program is required of all state departments. Typically clerical classifications are targeted to provide more promotional opportunity by bridging to the analytical classifications.

Member Figueroa inquired if the information is laid out for the employee so he/she knows how to get to a specific job. Deputy Director Walton-Simons responded that this is precisely what the program does, and all of the information can be obtained by any employee from "the Bench", a CUIAB intranet site. In addition, there is a Northern California staff person and a Southern California staff person who contacts each interested employee to guide him/her through completing the forms. Their overall progress is tracked on a monthly basis to see where each employee is on their his/her career route.

Lastly, Deputy Director Walton-Simons reported that the California State Information Security Office, within the Department of Finance, is forming four individual work groups to accomplish several of the information security action plans identified in the Governors 2006 State Strategic IT plan. The groups will consist of about eight staff from other departments and agencies. We were fortunate that our information security officer, Michelle Robinson, was selected to be a member of one of those work groups. She will represent CUIAB well and should learn a lot too.

8. Chief Counsel's Report:

Chief Counsel Ralph Hilton reported that the overall caseload for Board Members was down somewhat last month, reflecting the general trend in appeals.

On the litigation front Chief Counsel Ralph Hilton reported we are currently carrying 141 court cases, with four new cases filed last month. No cases were closed. We received a significant ruling in one of the rate manipulation cases, with the court denying the writ of mandate as premature because the petitioner has not yet paid the assessment, amounting to approximately \$49 million.

9. Unfinished & New Business:

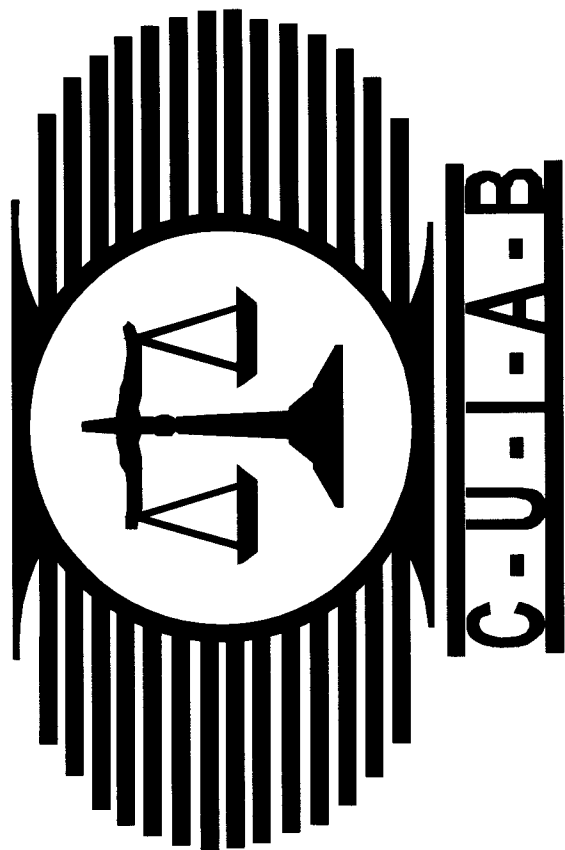
There was no unfinished or new business.

10. Public Comment:

There was no public comment.

11. Closed Session:

The regularly scheduled Board meeting adjourned. There was no closed session.



YEAR-END REPORT

2006

WORKLOAD

FIELD OPERATIONS – Lower Authority

VERIFICATIONS

- All Programs Total
- Unemployment Insurance
- Disability Insurance
- Tax
- Rulings & Other

Total

257,054
231,042
20,324
1,752
3,936

DISPOSITIONS

- All Programs Total
- Unemployment Insurance
- Disability Insurance
- Tax
- Rulings & Other

Total

258,523
230,519
21,265
1,633
5,106

*Note: By comparison, Texas has the Nation's second largest workload
which is one half of California's workload.*

WORKLOAD

FIELD OPERATIONS – Lower Authority cont'd

VERIFICATIONS

- Calendar Year Comparison:
 - o 2006 257,054
 - o 2005 237,071

Verified 19,983 more cases in calendar year 2006 than in calendar year 2005

This reflects an 8% increase over the number of cases verified in 2005

WORKLOAD

FIELD OPERATIONS – Lower Authority
cont'd

DISPOSITIONS

- Calendar Year Comparison:
 - o 2006 258,523
 - o 2005 238,431

Disposed of 20,092 more cases in calendar year 2006 than in 2005

This reflects an 8% increase over the number of cases disposed in 2005

WORKLOAD

APPELLATE OPERATIONS – Higher Authority

VERIFICATIONS

- All Programs Total
- o Unemployment Insurance
- o Disability Insurance
- o Tax
- o Rulings & Others

<u>Total</u>
15,267
13,830
1,122
201
114

DISPOSITIONS

- All Programs Total
- o Unemployment Insurance
- o Disability Insurance
- o Tax
- o Rulings & Others

<u>Total</u>
16,232
14,656
1,186
258
132

NOTE:

- 6% of all Field decisions are appealed to Appellate Operations (AO)
- This is the second lowest appeals rate in the Nation.
- By comparison, Texas' appeal rate is 16% to their AO.

WORKLOAD

APPELLATE OPERATIONS – Higher Authority conf'd

VERIFICATIONS

- Calendar Year Comparison:

o 2006	15,267
o 2005	16,649

Verified 1,382 less cases in calendar year 2006 than in calendar year 2005

This reflects an 8% decrease over the number of cases verified in 2005

WORKLOAD

APPELLATE OPERATIONS – Higher Authority
conf'd

DISPOSITIONS

- Calendar Year Comparison:
 - o 2006 16,232
 - o 2005 16,646

Disposed of 414 less cases in calendar year 2006 than in 2005

This reflects a 2% decrease over the number of cases disposed in 2005

WORKLOAD

Board Members

DISPOSITIONS

16,232

- Reversals of Field Decisions 1,680 or 10.3%
- Decisions appealed to Superior Court 58 or .36%

U.S. Department of Labor

Quality Review and Case Aging

- *Lower Authority Appeals Quality –*
Criteria: 80.0% of all scores must be 85% or better

- 4th Quarter 2005: 90.0%
- 1st Quarter 2006: 80.0%
- 2nd Quarter 2006: 87.2%
- 3rd Quarter 2006: 85.0%

- *Average Age of a case in 2006*

- Field: 33 Days
- Appellate: 39 days

CUIAB ACCOMPLISHMENTS

2006

- DIGITAL RECORDING

Over the course of the year, CUIAB replaced its system of taped hearings using analog cassette tapes with a system whereby the hearings are recorded digitally and stored on a central file server. The transition was seamless.

- QUALITY REVIEW

During the past year, CUIAB's quality review scores improved by nearly 9%. CUIAB scored well above average.

- TAX CASES

CUIAB continued to hear tax cases at an accelerated rate. Prominent among these are cases involving the employment status of couriers. Also numerous cases were heard involving alleged tax avoidance schemes.

CUIAB ACCOMPLISHMENTS

2006 (cont'd)

- USER EFFICIENCIES AND ACCESSIBILITY

CUIAB initiated a customer satisfaction survey. Over 2600 hundred survey forms were completed, representing a return rate of 74% of all surveys distributed.

- o A committee was formed to rewrite the hearing information pamphlet.
- o CUIAB continues to provide Saturday and evening hearings in some offices in order to improve accessibility of services.
- o CUIAB continues to conduct in person hearings in order to insure due process and to provide a high quality service to employers and claimants.

CUIAB ACCOMPLISHMENTS

2006 (cont'd)

- **PRECEDENTS**

In November, the Board issued precedent decision P-B-494, one of its more significant precedents. The case is significant because it discusses the status of the parties relative to one another and the extent of due process of law to which each is entitled.

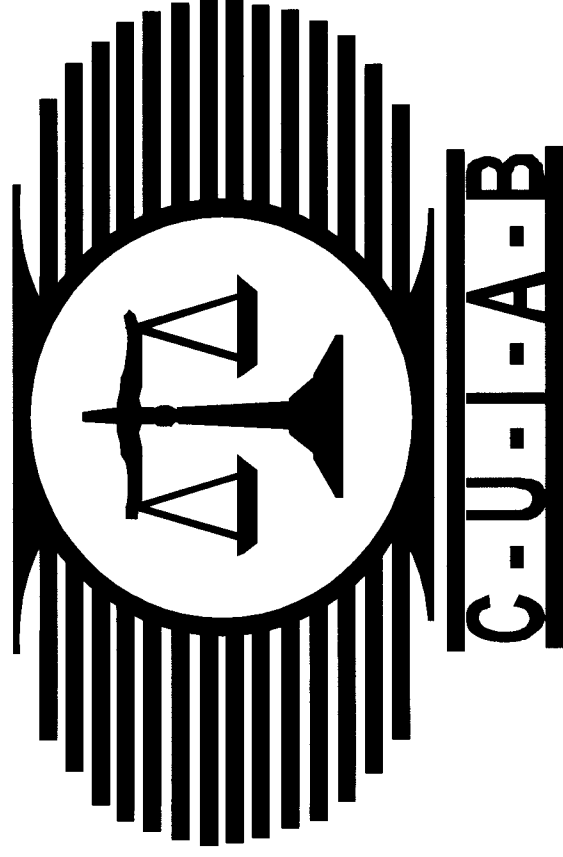
- **CASE AGING**

CUIAB made significant advances in reducing the average age of its open cases. The average age of all open UI cases at the Field Operations level fell from 45 to 33 days. At the Appellate level, the average age dropped from 52 to 39 days.

- **NATIONAL PRESENCE**

In June, CUIAB hosted the annual conference of the National Association of Unemployment Insurance Appellate Boards. A total of 165 persons from 48 states, Canada, the District of Columbia, and the U.S. DOL participated in the week long,¹² educationally-oriented conference.

Hats off to CUIAB staff for
a very successful 2006!



FIELD OPERATIONS DECEMBER 2006 WORKLOAD

ALL PROGRAMS

VERIFICATIONS

Monthly Comparisons

20,472 verifications in December 2006

- December's verifications are 4% lower than the monthly average for Calendar Year 2006
- An 11% increase from November 2006 when verifications totaled 18,384

Quarterly Comparisons

60,799 verifications from October through December 2006

- An 8% decrease from July to September 2006 when verifications totaled 66,437

Annual Comparisons

257,054 verifications during the Calendar Year 2006

- An 8% increase compared to Calendar Year 2005 when verifications totaled 237,071

ALL PROGRAMS

DISPOSITIONS

Monthly Comparisons

20,145 dispositions in December 2006

- A 2% decrease from November 2006 when dispositions totaled 20,629

Quarterly Comparisons

62,839 dispositions during October through December 2006

- An 8% increase from July to September 2006 when dispositions totaled 58,441

Annual Comparisons

258,523 dispositions during the Calendar Year 2006 January through December

- An 8% increase compared to the 2005 Calendar Year January through December when dispositions totaled 238,431

UNEMPLOYMENT INSURANCE PROGRAM

UI VERIFICATIONS

Monthly Comparisons

18,664 verifications in December 2006

- A 13% increase from November 2006 when verifications totaled 16,542
- A 17% increase from December 2005 when verifications totaled 15,953

Quarterly Comparisons

54,953 verifications during October through December 2006

- An 8% decrease from July to September 2006 when verifications totaled 59,784

Annual Comparisons

231,042 verifications during the Calendar Year 2006 January through December

- A 12% increase compared to the 2005 Calendar Year January through December when verifications totaled 207,158

UNEMPLOYMENT INSURANCE PROGRAM

UI DISPOSITIONS

Monthly Comparisons

17,968 dispositions in December 2006

- A 2% decrease from November 2006 when dispositions totaled 18,325
- A 3% decrease from December 2005 when dispositions totaled 18,547

Quarterly Comparisons

55,893 dispositions during October through December 2006

- A 10% increase compared to July through September 2006 when dispositions totaled 50,683

Annual Comparisons

230,519 dispositions during the Calendar Year 2006 January through December

- A 13% increase compared to the 2005 Calendar Year January through December when dispositions totaled 204,303

IMPACT OF WORKLOAD ON BUDGET

- Our budget is workload driven, with 87% based upon unemployment insurance.
- October Revise projected a decrease in UI workload of 13,000 cases or two million dollars.
- The projections in the October Revise were unexpected.
 - o The May Revise projected an increase in workload of 5%. Verifications for the period of May through August were the highest in two years.
 - o Further, verifications for calendar year 2006 reflected an increase of 12% compared to calendar year 2005.

IMPACT OF WORKLOAD ON BUDGET

cont'd

- But, the quarterly numbers reflect that the October Revise is accurate.
 - During the July to September quarter, verifications totaled 59,784.
 - During the October to December quarter, verifications totaled 54,953, an 8% decrease.
- The policy decision to include Section 1257a as an issue in Benefit Audit cases resulted in an increase of verifications from November to December of 13%.
 - During December 2006, verifications totaled 18,664, an increase of 13% from November when verifications totaled 16,542.
 - The monthly increase of 2,122 equals 12,732 over six months which covers the projected decrease of workload for the balance of the fiscal year.